

## R381-40-10. CAPACITY AND RATIO.

The rules in this section regulate the capacity and caregiver-to-child ratio which is the maximum number of children each caregiver may be responsible for. These rules are based on what children need for quality nurturing care.

Capacity of a room will be determined based on the ratio of the oldest children cared for in the room. The capacity of the facility is the combined capacity of the rooms in the facility used to care for children.

Rules regarding the caregiver-to-child ratio apply any time there are children in care, including when children are being transported and during offsite activities. The rules also apply during special activities when child care is provided at the facility, such as Parents' Night Out.

### Does the Child Count in the Caregiver-to-Child Ratio?

| Child's Age       | Unrelated Child | Provider's Own Child | Caregiver's Own Child | Other Related Child |
|-------------------|-----------------|----------------------|-----------------------|---------------------|
| 0 -3 years        | Yes             | Yes                  | Yes                   | Yes                 |
| 4 years and older | Yes             | No*                  | No*                   | Yes                 |

\*The provider's and caregiver's children who are 4 years old and older do not count in the caregiver-to-child ratio as long as the provider or caregiver is working at the facility or performing work-related duties.

Refer to the following guidelines:

- The rules are assessed according to the number of children present and not by the number of enrolled children.
- Multiple groups can be in gyms and outdoor areas at the same time as long as there is adequate square footage per child and caregiver-to-child ratios are maintained.
- For an individual to count in the caregiver-to-child ratio, they must:
  - Meet personnel requirements as specified in rule,
  - Be in the room or area where the children are being cared for, and
  - Be performing caregiving duties.
- A room with more than one caregiver may be out of ratio for a very brief period of time when:
  - One caregiver must leave the room (but not the premises) in order to meet the immediate needs

of the children in their group.

- A staff person needs to use the bathroom and there is no other employee present in the facility (cook, director, receptionist, etc.) to assist in giving the caregiver a break.
- Meeting the immediate needs of the children includes tasks such as helping a child who is injured or sick, getting food for the children, giving medication to a child, helping a child in the bathroom, or helping a child change soiled clothing.
- Tasks that are not considered meeting the immediate needs of children include doing laundry or other housekeeping duties, making personal phone calls, or taking a work break.
- Children may temporarily, no more than 2 hours, be in groups that exceed maximum group sizes for outdoor play, meal times, nap times, or if there is a special activity such as a puppet show, provided the required caregiver-to-child ratios are maintained.
- When a staff member does not count in the caregiver-to-child ratio and is caring for their own child, the staff member's child does not count in the ratio, or capacity. That parent is the only person responsible for the care of their child.

#### *45 Minute Allowance*

For unforeseen circumstances, the caregiver-to-child ratio may be out of compliance for up to 45 minutes. Examples of unforeseen circumstances include:

- A caregiver does not arrive at their scheduled time.
- Children arrive earlier or depart later than their normal time without advance notification from their parent.
- A caregiver needs to leave due to an emergency.
- A caregiver leaves their employment without advance notice or is dismissed for immediate cause.

To remain in compliance with ratios during unforeseen circumstances, refer to the following guidelines:

- The provider must address the situation as soon as it is known that ratios will be out of compliance due to an unforeseen circumstance. The intent of the 45 minutes is to allow enough time for an approved individual to arrive and place the facility back into ratio.
- Children must not be left unsupervised.
- Sign-in and sign-out records must be up-to-date and available for review by CCL.
- If licensing staff arrive when ratios are out of compliance, but the ratio is brought into compliance within the 45 minute allowance, it will not be considered a rule violation. Instead:
  - Two Focus Inspections will be conducted to confirm that it was an unforeseen circumstance.
  - If ratios are out of compliance at the first Focus Inspection, a corrective action will be issued and the second Focus Inspection will not be conducted. Instead, a Followup Inspection will be conducted to verify correction is maintained. (When following up on a ratio violation, all classrooms and areas will be assessed, not just the classroom or areas that were found out of compliance.)
  - If ratios are in compliance at the first and second Focus Inspections, no corrective actions will be issued, but the situation will be documented in the CCL App.

- It is a rule violation if the ratio is not brought into compliance within the 45 minutes.

### *Emergency Ratio Variance*

When unforeseen circumstances occur and the provider cannot meet the required staff-to-child ratio, CCL may grant an emergency variance to the ratio rule for up to ten working days.

Examples of long-term, unforeseen circumstances include:

- A staff member leaves their employment without advance notice or is dismissed for immediate cause.

To obtain this variance, the provider must:

- Contact their licensor within 24 hours (or contact other CCL staff if the licensor is unavailable), and
- Inform their licensor of the number of staff who left employment or took an unexpected leave of absence, the staff's names and/or their Covered Individual Numbers.

Refer to the following guidelines:

- This variance is not granted for planned or scheduled leave of absence.
- The number of children (2 years old and older) per caregiver may not be more than 1½ times the number stated in rule.
- The provider must maintain compliance with supervision rules. A variance for supervision will not be granted.
- A Focus Inspection will be conducted to verify compliance with ratios after the variance expires.

- (1) The department may limit the maximum allowed capacity for a child care facility based on local ordinances.**
- (2) The provider shall ensure that the number of children in care at any given time does not exceed the capacity identified on the license.**
- (3) The department may determine the total capacity based on the number of rooms and the ages of children cared for in those rooms.**
- (4) As listed in Table 1 for single-age groups of children, the provider shall:**
  - (a) maintain at least the number of caregivers; and**
  - (b) not exceed the number of children in the caregiver-to-child ratio per room.**

| Table 1<br>Caregiver-to-Child Ratios |                 |               |
|--------------------------------------|-----------------|---------------|
| Ages of Children                     | # of Caregivers | # of Children |
| 2 years old                          | at least 1      | 7             |
| 3 years old                          | at least 1      | 12            |
| 4 years old                          | at least 1      | 15            |
| 5 years old                          | at least 1      | 20            |

### Rationale/Explanation

Child development and caregiving quality improves when group size and child:staff ratios are smaller. Improved verbal interactions are correlated with lower child:staff ratios. Small ratios are very important for young children's development. The recommended group size and child:staff ratio allow three- to five-year-old children to have continuing adult support and guidance while encouraging independent, self-initiated play and other activities CFOC 4th ed. Standards 1.1.1.1 p.p. 4-5.

### Risk Level

High

### Corrective Action for 1st Instance

Citation and CMP Warning when a group of:

- 2-year-olds are over ratio by 2 or more children.
- 3- or 4-year-olds are over ratio by 4 or more children.
- 5-year-olds are over ratio by 6 or more children.
- Children of any age are over ratio during transportation or offsite activities.

### Risk Level

Moderate

### Corrective Action for 1st Instance

Citation Warning when a group of:

- 2-year-olds are over ratio by 1 child.
- 3- or 4-year-olds are over ratio by 3 children.
- 5-year-olds are over ratio by 4 to 5 children.

### Risk Level

Low

### Corrective Action for 1st Instance

Warning when:

- A group of 3- or 4-year-olds is over ratio by 1 to 2 children.
- A group of 5-year-olds children is over ratio by 1 to 3 children.

(5) As listed in Tables 2-4 for mixed-age groups of children, the provider shall:

- maintain at least the number of caregivers, and
- not exceed the number of children in the caregiver-to-child ratio per room.

| Table 2<br>Two-to-five year-olds       |                   |                    |
|--|-------------------|--------------------|
| # Caregivers Required                  | Age               | # Children Present |
| At least 1                             | 2 years           | 1-6                |
|  | 3, 4, and 5 years | 1-10               |
| Maximum Total children in the room: 11 |                   |                    |

| Table 3<br>Three-to-five year-olds     |         |                    |
|--|---------|--------------------|
| # Caregivers Required                  | Age     | # Children Present |
| At least 1                             | 3 years | 1-11               |
|  | 4 years | 1-14               |
|  | 5 years | 1-14               |
| Maximum Total children in the room: 16 |         |                    |

| Table 4<br>Four-to-five year-olds      |         |                    |
|--|---------|--------------------|
| # Caregivers Required                  | Age     | # Children Present |
| At least 1                             | 4 years | 1-14               |
|  | 5 years | 1-17               |
| Maximum Total children in the room: 18 |         |                    |

## Risk Level

High

#### **Corrective Action for 1st Instance**

Citation and CMP Warning when:

- The youngest child is 2 years old and the room is over ratio by 4 or more children.
- The youngest child is 3 years old or older and the room is over ratio by 5 or more children.

#### **Risk Level**

Moderate

#### **Corrective Action for 1st Instance**

Citation Warning when:

- The youngest child is 2 years old and the room is over ratio by 3 children.
- The youngest child is 3 years old or older and the room is over ratio by 4 children.

#### **Risk Level**

Low

#### **Corrective Action for 1st Instance**

Warning when:

- The youngest child is 2 years old and the room is over ratio by 1 to 2 children.
- The youngest child is 3 years old or older and the room is over ratio by 1 to 3 children.

- (6) The provider may exclude the provider's or an employee's child age four years or older from the caregiver-to-child ratio when the parent of the child is working at the facility.

#### **Rationale/Explanation**

This rule applies when determining compliance to capacity and ratios.

#### **Compliance Guidelines**

A child's parent is considered to be working at the facility if they are "on the clock" and on the premises or have left to perform a work-related duty (for example, a bus run or buying program supplies).

- (7) The provider may include caregivers, student interns who are registered in a high school or college child care course, and volunteers who are 16 years old or older in the caregiver-to-child ratio.

#### **Rationale/Explanation**

Assistant teachers and teacher aides should be at least eighteen years of age, CFOC 4th ed. Standard 1.3.2.3 p.p. 13.

#### **Compliance Guidelines**

Caregivers who are 16 or 17 years old can have unsupervised access to children if: they are not volunteers, they are not left unsupervised for more than 2 consecutive hours per group of children, and the director or director designee is at the facility or on the off-site activity.

**Risk Level**

Moderate

**Corrective Action for 1st Instance**

Citation Warning